

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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<b>NATIONWIDE MUTUAL FIRE INSURANCE COMPANY,</b>	)	
	)	
	)	
<b>Plaintiff,</b>	)	
v.	)	<b>No. 09-2089-STA-dkv</b>
	)	
<b>LAWRENCE NORTON, and AURORA LOAN SERVICES, LLC and GMAC MORTGAGE, LLC,</b>	)	
	)	
	)	
<b>Defendants.</b>	)	

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**ORDER DISMISSING PLAINTIFF'S CLAIMS AGAINST DEFENDANT LAWRENCE  
NORTON ONLY**

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Before the Court is Plaintiff's Notice of Voluntary Dismissal (D.E. # 27) filed on August 7, 2009. Fed. R. Civ. P. 41(a)(1)(i) permits an action to "be dismissed by the plaintiff without order of court by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs." In this case, Defendant Lawrence Norton had not filed an answer or motion for summary judgment. Therefore, Plaintiff's Notice of Voluntary Dismissal operates as a dismissal of Plaintiff's claims as to that Defendant.

On the other hand, Defendants Aurora Loan Services, LLC ("Aurora Loan") and GMAC Mortgage, LLC ("GMAC Mortgage") had filed separate answers to Plaintiff's Complaint. Therefore, voluntary dismissal by filing a notice of dismissal is no longer available to Plaintiff as

to these two defendants. Rule 41(a)(1)(ii) does permit a plaintiff to file a “stipulation of dismissal signed by all parties who have appeared in the action.” With respect to Aurora Loan and/or GMAC Mortgage, Plaintiff must file a Stipulation of Dismissal or alternatively a Motion for Voluntary Dismissal pursuant to Rule 41(a)(2). Therefore, Plaintiff’s Notice of Dismissal has no effect on its claims against Aurora Loan and GMAC Mortgage.

**IT IS SO ORDERED.**

s/ S. Thomas Anderson  
S. THOMAS ANDERSON  
UNITED STATES DISTRICT JUDGE

Date: August 10, 2009